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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/022,460

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Michael Gauselmann

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06/16/2004

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EXAMINER

MARKS, CHRISTINA M

ART UNIT

PAPER NUMBER

3713

11

DATE MAILED: 06/16/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/022,460

Applicant(s)

GAUSELMANN, MICHAEL *cm*

Examiner

C. Marks

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 14 December 2001.  
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-44 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 1-44 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☒ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☒ Certified copies of the priority documents have been received in Application No. 09/952,613.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 3,4,5,8.  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_  
5) ☐ Notice of Informal Patent Application (PTO-152)  
6) ☐ Other: \_\_\_\_\_

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## DETAILED ACTION

### *Priority*

Acknowledgment is made of applicant's claim for foreign priority under 35 U.S.C. 119(a)-(d). The certified copy has been filed in parent Application No. 09/952,613, filed on 13 September 2001. ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-6, 12-13, 15-16, 19, 24-28, 34, 36-37 and 40 are rejected under 35 U.S.C. 102(e) as being anticipated by O'Halloran (US Patent No. 6,439,993).

O'Halloran discloses a gaming method wherein a selected combination of symbols in a matrix of M rows and N columns is displayed (FIG 1) wherein the selected symbols include at least one special symbol and other symbols (Column 1, lines 38-43). The method also comprises converting at least one of said other symbols to at least one different symbol due the at least one special symbol being selected for the matrix (Column 1, lines 38-43).

Regarding claim 2, the gaming method includes displaying the matrix to the user (see FIGs 1-3).

Regarding claim 3, the conversion of display symbols in the matrix to different symbols occurs due to the special symbol being selected (Column 1, lines 38-43).

Regarding claim 4, the selection occurs based on a psuedo-random number generation (Column 5, lines 40-45).

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Regarding claim 5, an award is provided for certain combination of symbols across one or more paylines (Column 1, lines 5-15).

Regarding claim 6, the number of rows is three and the number of columns is 5 (see FIGs 1-3).

Regarding claims 12 and 19, the conversion comprises converting certain other symbols to the special symbol (Column 3, lines 5-10).

Regarding claim 13, the conversion includes the initially selected symbols being changed to a converted symbol (Column 2, lines 63-64).

Regarding claim 15, the method further determines after conversion whether the symbol is a winning combination (Column 1, lines 40-44).

Regarding claim 16, the paylines are disclosed to be horizontal (Column 1, lines 34-37).

Regarding claim 24, O'Halloran discloses a display device with control circuitry. As for the intended use of such a device, the control also controls the display to display a combination of selected symbols in an M x N matrix (FIG 1) wherein the symbols include at least one special symbol and other symbols (Column 1, lines 38-43) to control the display to convert at least one other symbols to a different symbol due to the special symbol occurring (Column 1, lines 38-43).

Regarding claim 25, O'Halloran also discloses the intended usage of converting displayed symbols to other symbols based on the special symbol occurring (Column 1, lines 38-43).

Regarding claim 26, the selection occurs based on a psuedo random number generation (Column 5, lines 40-45).

Regarding claim 27, an award is provided for certain combination of symbols across one or more paylines (Column 1, lines 5-15).

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Regarding claim 28, the number of rows is three and the number of columns is 5 (see FIGs 1-3).

Regarding claim 34 and 40, the conversion comprises converting certain other symbols to the special symbol (Column 3, lines 5-10).

Regarding claim 36, the method further determines after conversion whether the symbol is a winning combination (Column 1, lines 40-44).

Regarding claim 37, the paylines are disclosed to be horizontal (Column 1, lines 34-37).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 7-11, 14, 18, 20-23, 29-33, 35, 39 and 41-44 are rejected under 35 U.S.C. 103(a) as being unpatentable over O'Halloran (US Patent No. 6,439,993).

What O'Halloran discloses has been discussed above and is incorporated herein.

O'Halloran discloses in one embodiment that when the special symbol occurs, the substitution can occur on adjacent reels so as to be contiguous on a win line

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(Column 1, lines 48-51). O'Halloran also discloses that other variations and modification are within the scope of the invention including alternates or changes to steps disclosed therein. Hence, from the disclosure of O'Halloran a skilled artisan would find it obvious to convert symbols that are adjoining, to the left, to the right or randomly into the special symbol. One of ordinary skill in the art would thus find it obvious based upon the disclosure of O'Halloran to allow for a different pattern of symbols to be changed than those adjacent. One would be motivated to do so based upon the disclosure of O'Halloran that other variations are obvious as well as the fact that allowing different symbols to change based on different positions, the game would become more interesting as one would not be able to predict which symbols would be changed. O'Halloran even addresses this motivation in stating that if gambling machines lack variety, players will lose interest (Column 1, lines 20-22) thus a skilled artisan would be strongly motivated to follow this advice as well as the various embodiments dictated as obvious to allow for the special symbol to convert symbols in different places thus creating a game of variety that would not bore players.

Regarding claims 8, 10, 21-22, 30, 32, 42-44 O'Halloran discloses that the special symbol changes the other symbols into a wild card; however, for the reasons disclosed above regarding the additional disclosure of O'Halloran, one of ordinary skill in the art would find it obvious to allow the symbols to be changed to that defined by the programmer or player in order to keep the interest of the players and keep them guessing as to where and how the change will occur. One would be motivated to do this in order to adhere to the O'Halloran teachings of adding variety as well as to adhere to the specific design requirements for their system wherein the programmer would choose the method of change based on their wants, needs, and desires for their system.

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Regarding claims 14 and 35, O'Halloran discloses the special symbol to be a wild card but does not go into detail as to what it represents. However, an art rule is that when a wild card occurs, it will represent the symbol, which will give the player the highest payout for a line, thus representative of the symbol with the highest value. Thus, this representation would be obvious when the wild card is used in order to attract and maintain players and adhere to the standard industry rules.

Claims 17 and 38 are rejected under 35 U.S.C. 103(a) as being unpatentable over O'Halloran (US Patent No. 6,439,993) in view of Mayeroff (US Patent No. 6,224,483).

What O'Halloran discloses, teaches, and/or suggests has been discussed above and is incorporated herein.

O'Halloran discloses multiple paylines but does not disclose the payline being bent.

Mayeroff discloses that a popular payline format on a 3x5 slot is the Australian style, which comprises nine different paylines, including bent ones (Columns 1 and 2). Mayeroff further discloses that a plethora of winning symbol combinations is provided so that the player has a large number of various opportunities to win (Column 3, lines 9-12). It would have been obvious to one of ordinary skill in the art to use a bent payline configuration in the O'Halloran machine in order to provide the player with more betting opportunities, thus increasing their excitement and anticipation. Further, the usage of one payline over another is a design choice, obvious to one of ordinary skill in the art, and motivated by the wants and needs for a system as defined by its designer.

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### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

**US Patent No. 6,089,977:** Gaming machine with a wildcard that moves along the machine and changes the value of other symbols.

**US Patent No. 6,419,579:** Gaming machine with a wildcard that moves along a path and amplifies the value of the combination.

**US Patent No. 6,517,432:** Array with a special symbols that randomly moves and stop and new positions and changes the value of the combination.

**US Patent No. 6,290,600:** Bonus symbol that moves from reel to reel to accumulate winnings.

**US Publication No. 2003/0190947:** Moving symbols that change the value of the reel by moving positions.

**US Publication No. 2003/0190948:** Gaming device with pieces that move along the reel to change the value of others.

**US Patent No. 6,251,013:** Gaming machine with a wild card that moves randomly among the reel and changes the value of symbols.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to C. Marks whose telephone number is (703)-305-7497. The examiner can normally be reached on Monday - Thursday (7:30AM - 5:30 PM).

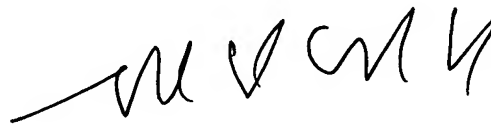
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Derris Banks can be reached on (703)-308-1745. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.



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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
cmm  
June 9, 2004



**MICHAEL O'NEILL**  
**PRIMARY EXAMINER**